

**REMARKS**

**Drawing Objection**

The reference numerals identified by the examiner have been added to the drawings in Figure 9.

**Rejection of Claim 21 under 35 USC 112 second paragraph**

Claim 21 have been amended to correct the antecedent identifier as suggested by the examiner.

**Rejection of Claim 1-8, 10-14, 17-19 and 21 under 35 USC 102(B) as being anticipated by Hoagland (4,492,506)**

Claims 1, 11 and 21 include the limitation of a second flexible member having one end directly connected to a vehicle and another end connected to a locking member. This relationship is not disclosed in the Princell reference. The Hoagland reference describes a spare tire carrier that includes a cable and an arm. Specifically Hoagland states at column 5 lines 36-38, "The arm operating assembly also includes a cable 88 with one end 90 fixed to the pin 86 and its other end 92 fastened to the free end 26 of arm 20." This relationship does not disclose a tire carrier having a first flexible member and a second flexible member having one end directly connected to a vehicle and another end connected to a locking member. The arm 20 is described as rigid under usual conditions at column 6 lines 11-14. The Hoagland reference does not teach first and second flexible members as outlined above, but rather discloses a rigid arm portion that has a cable attached to one end of the arm to pivot the arm to raise and lower a tire. Therefore

the Hoagland reference does not teach each and every limitation of Claims 1, 11 and 21. (see MPEP section 2131) Withdrawal of the above rejection is respectfully requested.

As independent Claims 1, 11 and 21 are not anticipated similarly dependant claims 2-8, 10, 12-14, and 17-19 are also not anticipated. Withdrawal of the above rejection is respectfully requested.

**Rejection of Claim 16, 20 under 35 USC 103(a) as being unpatentable over Hoagland in view of Marchiori (4,969,342)**

At the outset it is noted that neither the Hoagland reference nor the Marchiori reference teaches a first flexible member and a second flexible member directly attached at one end to a vehicle and at another end to a locking member as required in Claim 11 and incorporated in dependant Claims 16 and 19. To establish prima facie obviousness all the claim limitations must be taught or suggested by the prior art. (see MPEP section 2143.03) As there is no disclosure of a second flexible member directly attached at one end to the vehicle and at another end to a locking member in either of the references, applicant's attorney respectfully requests withdrawal of the rejection.

Additionally, the Marchiori reference teaches an anti theft device that has one end attached to a wheel well and another end attached to a valve stem of a tire. Upon movement of the tire the valve stem is removed deflating the tire to prevent theft of the vehicle. This structural relationship would not allow the tire carrier of Hoagland to operate, as the spare tire would be deflated upon movement of the tire thereby negating the purpose of a spare tire. The teachings of the two references must be taken as a whole (see MPEP 2141.02). As the two references operate in completely different manners with the Hoagland reference having an arm and cable to lower a

spare tire from an underside of a vehicle and the Marchiori reference having a cable attached to a vehicle and to the valve of a tire, a combination of the two references would require a substantial redesign of the two mechanisms. (See MPEP 2143) Therefore, withdrawal of the rejection is respectfully requested.

### **Conclusion**

It is argued that the present amendment places all of the claims in condition for allowance and a notice to that effect is respectfully requested. The Examiner is invited to telephone the undersigned attorney if doing so would advance prosecution of this case.

Respectfully submitted,

/Kevin S. MacKenzie/

Kevin S. MacKenzie  
Registration No. 45,639  
Gifford, Krass, Groh, Sprinkle,  
Anderson & Citkowski, P.C.  
2701 Troy Center Drive, Suite 330  
P.O. Box 7021  
Troy, MI 48007-7021  
(248) 647-6000

Attorney for Applicant

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